

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

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U.S. DISTRICT COURT
SAN JUAN, P.R.

1 JUANA HERRERA, et al.,

2 Plaintiffs,

3 v.

4 CIVIL NO. 98-1926 (RLA)

5 PEDRO TOLEDO DAVILA, et al.,

6 Defendants.

7

MINUTES OF DISCOVERY CONFERENCE
HELD ON FEBRUARY 25, 2000

8 A Discovery Conference was held on February 25, 2000 from 3:15
9 p.m. until 4:00 p.m. Plaintiffs were represented by JUDITH BERKAN,
10 ESQ. and MARY JO MENDEZ, ESQ. Defendants were represented as
11 follows: (1) JOSE L. DIAZ PORTALATIN through LYNN DOBLE-SALICRUP,
12 ESQ.; (2) ORLANDO ORTIZ and (3) EDUARDO MARTINEZ through MARIA DEL
13 MAR ORTIZ RIVERA, ESQ. and (4) ROBERT GARCIA PEREZ through RAMONITA
14 PEREZ DE GOTAY.

15 During the Conference the issues raised in plaintiffs' Urgent
16 Motion Requesting Status Conference... Regarding depositions in the
17 Dominican Republic, filed on February 18, 2000 (docket No. 137) were
18 discussed and disposed of as follows.

19

Depositions of Pathologists

20 The Court ruled that the nature of the testimony of DRS. SANTOS
21 JIMENEZ and SERGIO SARITA, pathologists in the Dominican Republic
22 who either conducted the autopsy or signed the report of the
23 decedent, was not tantamount to being an expert witness. Thus, this
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1 testimony would not trigger plaintiffs' duty to make disclosures
2 under Rule 26.

3 Plaintiffs stated that they did not intend to utilize DR.
4 SARITA as a witness at trial unless the need arose during the taking
5 of the deposition of DR. JIMENEZ.

6 Accordingly, in the event that plaintiffs determine that DR.
7 SARITA's testimony will be necessary at trial they shall file a
8 motion to this effect **within one week** from the conclusion of the
9 deposition of DR. JIMENEZ.

10 MS. PEREZ inquired when plaintiffs could make available copy
11 of the videotape and photographs of the autopsy. MS. MENDEZ advised
12 that she had previously seen the videotape which was in the
13 possession of decedent's relatives in the Dominican Republic and
14 would make it available to opposing counsel as soon as feasible
15 after their arrival in the Dominican Republic. MS. MENDEZ further
16 indicated that she was not certain her clients had a copy of the
17 photographs but if they did, she would also make them available.
18

19 **Videotape of Depositions**

20 The Court ruled that plaintiffs' indigent status was not
21 determinative as to who should bear the costs of the videotape. The
22 calling party bears the expense of the entire video including
23 defendants' examination regardless of the fact that defendants are
24 conducting a discovery deposition.

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The parties are not certain whether an interpreter will be utilized for the depositions.

Plaintiffs' counsel mentioned the possibility of transcribing only portions of the deposition testimony. This matter was left pending for a later time.

Deposition Oath

Plaintiffs advised that they had contacted a notary in the Dominican Republic who was willing to take the deponents' oath. However, he would charge \$180.00 per hour and insisted on being present during the entire deposition.

In view of the foregoing, all parties agreed for the Court to commission JUDITH BERKAN, ESQ. and RAMONITA PEREZ DE GOTAY, ESQ. under the provisions of Rule 28(b) Fed. R. Civ. P. to take the oath of the deponents in depositions taken in Santo Domingo related to these proceedings. A separate commission order shall be issued.

Miscellaneous

MS. DOBLE explained that all motions filed by her in this action had been bona fide efforts on her behalf to adequately represent the interests of her client.

MS. PEREZ also indicated that she resented the tone and the language of the letters forwarded by plaintiffs' counsel regarding the discovery postures in this case.

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1 The Court admonished counsel that henceforth they should
2 address each other with civility and mutual respect as they are all
3 professionals doing their best to represent their respective
4 client's interest.

5 IT IS SO ORDERED.

6 San Juan, Puerto Rico, this 25th day of February, 2000.



RAYMOND L. ACOSTA

United States District Judge

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